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Paper No.

K&L GATES LLP  
3580 CARMEL MOUNTAIN ROAD  
SUITE 200  
SAN DIEGO CA 92130

**MAILED**

**MAY 13 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7504376	:	DECISION ON REQUEST
Harris et al.	:	FOR
Issue Date: 03/17/2009	:	RECONSIDERATION OF
Application No. 10/717217	:	PATENT TERM ADJUSTMENT
Filed: 11/18/2003	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
3800096.00155 / 1412E	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 25, 2010, which is being treated as a renewed petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand eighteen (1018) days. For the reasons stated below, the petition is treated as a petition requesting that the requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred seventy-nine (979) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred seventy-nine (979) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on November 19, 2006, and ends on May 5, 2008, the day before the RCE was filed, and is 534 days. See 35 U.S.C. 154(b)(1)(B)(i). Considering the overlapping period of 48 days, beginning on November 19, 2006 and ending on January 5, 2007,

the date the first Office action was mailed, the "B" delay is 486 (534 - 48) days.

Petitioners have failed, however, to include the 39-day period of reduction for applicant delay as set forth in the letter regarding patent term adjustment mailed on February 3, 2009. Accordingly, the patent term adjustment is 979 (717 days Office delay + 486 days three years delay - 224 (185 + 39) days of applicant delay) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred seventy-nine (979) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

**CERTIFICATE OF CORRECTION**

PATENT : 7,504,376 B2

DATED : March 17, 2009

DRAFT

INVENTOR(S) : Harris et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 493 days.

Delete the phrase "by 493 days" and insert – by 979 days--